

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK-----X  
MALCOLM PITT,

Plaintiff,

v.

ROCKLAND COUNTY; SERGEANT

OBLENIS; SERGEANT LOWE;

CORRECTION OFFICER KARNEY;

CORRECTION OFFICER G. VANDUNK;

OFFICER FIGUEROA; OFFICER SPENCER,

Defendants.  
-----X**ORDER AND SECOND  
AMENDED ORDER  
OF SERVICE**

22 CV 8356 (VB)

Copies Mailed/Faxed  
Chambers of Vincent L. Briccetti

Plaintiff, who is incarcerated and proceeding pro se and in forma pauperis, commenced this action on September 29, 2022. (Doc. #2). By the Amended Order of Service dated November 30, 2022, the Court summarized the relevant procedural history of this case. (Doc. #17).

Because plaintiff is proceeding in forma pauperis, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. Walker v. Schult, 717 F.3d 119, 123 n.6 (2d Cir. 2013). By the Amended Order of Service dated November 30, 2022, the Court directed the Clerk to (i) add Officer Spencer to the docket, and (ii) complete the USM-285 form with the address for Officer Spencer, and deliver all documents necessary to effect service on Officer Spencer to the U.S. Marshals Service. (Doc. #17). The Court also extended plaintiff's Fed. R. Civ. P. 4(m) deadline to serve all remaining defendants to ninety days after the Clerk issued a summons for Officer Spencer. (Id.).

On November 30, 2022, the Clerk issued a summons as to Officer Spencer. (Doc. #18). Thus, plaintiff's Rule 4(m) deadline was February 28, 2023. To date, no proof of service has been filed on the docket.

By letter-motion dated March 6, 2023, defense counsel requested an extension of time to respond to plaintiff's interrogatories and requests for production of documents pursuant to Local Rule 33.2 (the "Local Rule 33.2 Demands"), because Officer Spencer has not yet been served. (Doc. #22). By the Order of Service dated October 20, 2022, defendants are required to respond to the Local Rule 33.2 Demands within 120 days of service of the first amended complaint. (Doc. #6).

Accordingly, IT IS HEREBY ORDERED:

1. Plaintiff's Rule 4(m) deadline to serve the Officer Spencer is extended to **April 3, 2023**.

2. All defendants' time to respond to the Local Rule 33.2 Demands is STAYED pending further Court Order.

3. All defendants' time to answer, move, or otherwise respond to the first amended complaint remains STAYED pending further Court Order.

4. The Clerk is instructed to terminate the letter-motion. (Doc. #22).

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

Chambers will mail a copy of this Order to plaintiff at the address listed on the docket.

Dated: March 6, 2023  
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', written over a horizontal line.

Vincent L. Briccetti  
United States District Judge